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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

DAVID PONCE,  
Plaintiff,  
vs.

HANFORD POLICE HPD, a public entity;  
OFFICER BRIAN SCANDURA, in his  
individual and official capacity, and DOES 1-  
50, inclusive, Jointly and Severally,  
Defendants.

Case No.: 1:21-cv-01045-ADA-BAM

**STIPULATION AND [PROPOSED]  
ORDER TO WITHDRAW MOTION TO  
DISMISS AND AMEND THE FOURTH  
AMENDED COMPLAINT**

Defendants, HANFORD POLICE and OFFICER BRIAN SCANDURA (collectively  
“Defendants”) and Plaintiff, DAVID PONCE (“Plaintiff”), by and through their respective  
counsel of record, hereby stipulate as follows:

WHEREAS, Plaintiff filed his FOURTH AMENDED COMPLAINT (“Amended  
Complaint”) on January 19, 2022, and Defendants were served following the filing;

WHEREAS, Plaintiff’s criminal matter connected with his arrest on March 20, 2021 has  
a hearing calendared for Plaintiff’s Motion to Withdraw Plea set for November 10, 2022;

WHEREAS, on September 16, 2022 Defendants filed their Motion to Dismiss the Fourth  
Amended Complaint pursuant to Federal Rule 12(b)(6);

WHEREAS, after the filing of Defendants’ Motion, the parties have further met and  
conferred regarding the Motion and the Fourth Amended Complaint and have agreed that it  
would be in the best interest of all parties to wait until Plaintiff’s Motion to Withdraw Plea has

1 been heard and ruled upon prior to submitting arguments to the Court on Defendants' Motion to  
2 Dismiss.

3 THEREFORE, IT IS HEREBY STIPULATED by and among the parties, through their  
4 respective counsel, that Defendants Motion to Dismiss filed on September 16, 2022, shall be  
5 withdrawn and Plaintiff shall file a Fifth Amended Complaint by December 31, 2022.

6  
7 Dated: September 26, 2022

SIAS LAW INC.

8 By: /s/ Jason O. Sias  
9 Jason O. Sias  
Attorneys for: Plaintiff, David Ponce

10 Dated: September 26, 2022

GRISWOLD, LaSALLE, COBB,  
DOWD & GIN, L.L.P.

12 By: /s/ Christina G. DiFilippo  
13 CHRISTINA G. Di FILIPPO  
14 Attorneys for: Defendants, Hanford Police  
Department and Officer Brian Scandura

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**ORDER**

Pursuant to the foregoing stipulation of the parties, and for good cause shown, it is hereby ORDERED that the Motion to Dismiss filed by Defendants HANFORD POLICE and OFFICER BRIAN SCANDURA is hereby withdrawn.

IT IS FURTHER ORDERED that Plaintiff shall file a Fifth Amended Complaint by December 31, 2022.

IT IS FURTHER ORDERED that the Mandatory Scheduling Conference currently set for December 20, 2022 is continued to **February 1, 2023 at 9:00 AM in Courtroom 8 (BAM)** **before Magistrate Judge Barbara A. McAuliffe**. The parties shall file a Joint Scheduling Report one week prior to the conference. The parties shall appear at the hearing remotely either via Zoom video conference or Zoom telephone number. The parties shall be provided with the Zoom ID and password by the Courtroom Deputy prior to the conference. The Zoom ID number and password are confidential and are not to be shared. Appropriate court attire required.

IT IS SO ORDERED.

Dated: September 26, 2022

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE